



P21636.A06

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Thomas AUGSCHELLER et al.

Art Unit: 1731

Serial No : 09/991,639

Examiner: M. S. Alvo

Filed : November 26, 2001

For : MACHINE TO MANUFACTURE A FIBROUS MATERIAL WEB

ELECTION WITH TRAVERSE

Commissioner of Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Examiner's restriction requirement of October 1, 2003, the time set for response, with a one month extension of time, being December 1, 2003, Applicant hereby elects the invention of Group I, including claims 1-88. Moreover, Applicant further elects the species encompassing claims 32-47. Thus, Applicant requests examination of at least claims 1-47, which includes generic claims 1-31 and elected claims 32-47. The above election is made with traverse for the reasons set herein below:

In the Official Action of October 1, 2003, the Examiner indicated that all claims (i.e., claims 1-106) were subject to restriction under 35 U.S.C. § 121. The Examiner restricted the claimed invention into Group I, including claims 1-88, drawn to an apparatus for

P21636.A06

manufacturing a web, classified in class 162, subclass 289, and Group II, including claims 89-106, drawn to a method of modifying manufacturing a web, classified in class 162, subclass 192.

The Examiner asserted that the inventions were related as process and apparatus for its practice, and that the inventions are distinct from each other under M.P.E.P. § 806.05(e) because “the apparatus of Group I does not require plasma current or plasma stream as required by the method of Group II and could use a process of electrostatic air without a plasma current or stream.”

In addition to the restriction of inventions, the Examiner indicated that, an election of one of the following species would also be required:

Species directed to a nozzle moisturizer and encompassing claims 32-47;

Species directed to a steam moisturizer and encompassing claims 48-59;

Species directed to a steam blow box and encompassing claims 60-70; and

Species directed to a moistening device and encompassing claims 71-88.

The Examiner also noted that claims 1-31 were generic.

As noted above, Applicant has elected the invention of Group I and further elected the species of claims 32-47. Accordingly, Applicant submits that at least claims 1-47 read on the elected Species.

Applicant respectfully submits that the Examiner has omitted one of the two criteria

P21636.A06

for a proper restriction requirement now established by the U.S. Patent and Trademark Office policy. That is, as set forth in M.P.E.P. § 803, "an appropriate explanation" must be advanced by the Examiner as to the existence of a "serious burden" if restriction were not required.

While the Examiner has alleged a possible distinction between the two identified groups of invention, the Examiner has not shown that a concurrent examination of these groups, and each species, would present a "serious burden." In fact, the Examiner has acknowledged that the individual groups would be classified in the same class, i.e., class 162, and there is no appropriate statement that the search areas required to examine the invention of Group I would not overlap into the search areas for examining the invention of Group II, and vice versa.

Accordingly, Applicant respectfully submits that the search for the combination of features recited in the claims of the above-noted groups, and the individual species, if not totally co-extensive, would appear to have a very substantial degree of overlap. Because the search for each group and species of invention is substantially the same, Applicant submits that no undue or serious burden would be presented in concurrently examining Groups I and II (including each identified species). Thus, for the above-noted reasons, and consistent with the Office policy set forth above in M.P.E.P. § 803, Applicant respectfully requests that the Examiner reconsider and withdraw the restriction and species requirement in this application.

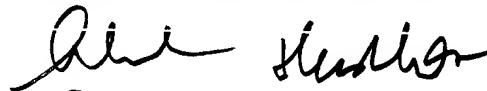
P21636.A06

For all of the above reasons, the Examiner's restriction is believed to be improper. Nevertheless, Applicant has elected, with traverse, the invention defined by Group I and the species encompassing claims 32-47, i.e., claims 1-47, in the event that the Examiner chooses not to reconsider and withdraw the restriction or species requirement.

Please charge any additional fees necessary for consideration of the papers filed herein and refund excess payments to Deposit Account No. 19-0089.

Should the Examiner have any questions or comments, he is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,
Thomas AUGSCHELLER et al.


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November 11, 2003
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